

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

FILED

MAY 12 2003

ROBERT WILSON, JR.
Plaintiff,

v.

HIRERIGHT, INC.
Defendant,

CLERK, U.S. DISTRICT COURT
WESTERN DISTRICT OF TEXAS
BY
DEPUTY CLERK

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CIVIL ACTION NO

§ A03 CA0382 0G

NOTICE OF REMOVAL

Pursuant to 28 U.S.C. §§ 1441 and 1446, Defendant HireRight, Inc. ("Defendant") files this Notice of Removal of the above-entitled action from the 45th Judicial District, Bexar County, Texas, to the United States District Court for the Western District of Texas, San Antonio Division. In connection with this Notice of Removal, Defendant respectfully shows the Court the following:

1. On or about March 25, 2003, Cause No. 2003 CI04571, entitled *Robert Wilson, Jr. v. HireRight, Inc.*, was filed in the 45th Judicial District, Bexar County, Texas.¹ (See Plaintiff's Original Petition, exhibit 1 attached hereto).

2. This action is a civil action of which this Court has original jurisdiction under 28 U.S.C. §1332 and is one which may be removed by Defendant pursuant to the provisions of 28 U.S.C. §1441(a) in that it is a civil action between citizens of different states and the amount in controversy exceeds \$75,000.00, exclusive of interest and costs. The Plaintiff claims damages in an amount which exceeds the statutory minimum.

¹ Defendant waived service of process and filed its answer on April 4, 2003, along with a Special Exception regarding Plaintiff's failure to specify an amount in controversy. (See exhibit 2, Defendant's Original Answer; Exhibit 3, HireRight's Special Exception).

3. Plaintiff Robert Wilson was, and still is, a citizen of the state of Texas. (*See* exhibit 1, Plaintiff's Original Petition at ¶ 1(a)). Defendant was, at the time of the filing of this action, and still is, a citizen of the state of California. Defendant is incorporated in California and has its principal place of business in the state of California. Defendant is the only defendant named in this action.

4. Plaintiff's Original Petition did not indicate that there was the necessary minimum amount in controversy for jurisdiction in this Court. Pursuant to 28 U.S.C. §1446(b), however, the instant Notice of Removal is timely because it was filed and served within thirty (30) days after receipt by the Defendant of an "amended pleading, motion, order or other paper" from which it was first ascertained that the case was one that had become removable. Specifically, Defendant received Plaintiff's First Amended Original Petition on April 23, 2003, in which Plaintiff specified for the first time damages in the amount of \$100,000. (*See* exhibit 5, Plaintiff's First Amended Original Petition, ¶ 6, attached hereto).

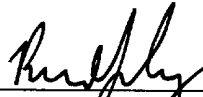
5. Venue is proper under 28 U.S.C. §1391(a).

6. The Notice to State Court of Removal to Federal Court was filed in state court and served simultaneously herewith; and a copy is attached as Exhibit 5.

7. A *docket sheet and certified copy* of all other pleadings and papers filed in the state court action are attached as Exhibit 6.

WHEREFORE, Defendant respectfully requests the removal of this action from the 45th Judicial District, Bexar County, Texas, to this Court.

Respectfully submitted,



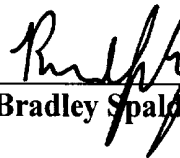
J. Bradley Spalding
State Bar No. 00786253
Fed. I.D. No. 21169
LITTLER MENDELSON, P.C.
1301 McKinney Street
Suite 1900
Houston, Texas 77010
(713) 951-9400 (Telephone)
(713) 951-9212 (Telecopier)

**Attorney for Defendant
HireRight, Inc.**

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing document has been forwarded to counsel of record by facsimile and postage-prepaid, certified mail, return receipt requested, on this the 9th day of May, 2003, addressed as follows:

Gregory W. Canfield
888 Isom Road
Suite 203
San Antonio, Texas 78216



J. Bradley Spalding

et seq.

6. As a result of Defendant's conduct, Plaintiff has suffered damages in the form of past and future loss of earning capacity, and mental anguish, and other damages all in an amount exceeding the minimum jurisdictional limits of this Court. Defendant's actions have caused Mr. Robert Wilson, Jr., to lose an opportunity to be employed by H.E. Butt Food Stores.

Among other damages, he has suffered humiliation, public ridicule, loss of personal reputation, mental anguish, and emotional distress as a consequence of the false statements made by the Defendant.

7. In the alternative, Plaintiff would state that HireRight, Inc., acted with reckless disregard to the rights of Plaintiff and that HireRight, Inc.'s actions were grossly negligent.

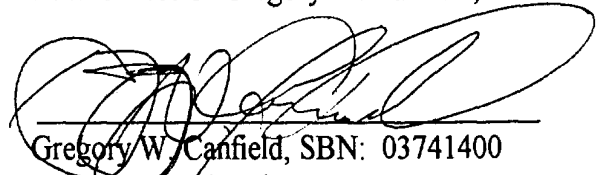
JURY TRIAL DEMAND

8. Robert Wilson, Jr., asserts his rights under the Texas Constitution, Article I, Section 15, and hereby demands a jury trial in accordance with Texas Rule of Civil Procedure 216.

WHEREFORE, PREMISES CONSIDERED, Plaintiff prays that citation issue and, that after notice and hearing, he recover damages against Defendant as set out above, as well as prejudgment and postjudgment interest, reasonable attorney's fees, costs of court, and such other and further relief to which the Plaintiff may be entitled.

Respectfully submitted,

Law Offices of Gregory W. Canfield, P.C.


Gregory W. Canfield, SBN: 03741400
888 Isom Road, Suite 203
San Antonio TX 78216
(210) 344-3366; (210) 344-4346 FAX

0/5/03 M/16

20030104571

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CAUSE NO.

ROBERT WILSON, JR.

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IN THE DISTRICT COURT

v.

45m

JUDICIAL DISTRICT

HIRERIGHT, INC.

BEXAR COUNTY, TEXAS

PLAINTIFF'S ORIGINAL PETITION

TO THE HONORABLE JUDGE OF SAID COURT:

Now comes ROBERT WILSON, JR., as Plaintiff, complaining of HireRight, Inc., Defendant, and for cause of action would show the Court as follows:

1.(a) Plaintiff, ROBERT WILSON, JR., resides at 3270 Nacogdoches #703, San Antonio TX 78217.

1.(b) Process should be served on Defendant, HIRERIGHT, INC., by serving the Vice President of

Operations, Lisa Gallagher, at HireRight, Inc., 2100 Main St., Suite 400, Irvine CA 92614-6263.

2. Plaintiff advises the Court that the discovery in this cause will be conducted under Level II.

3. Venue is proper in Bexar County, Texas pursuant to V.T.C.A. Civil Practice & Remedies Code §15.001 et seq.

4. On or about March 25, 2002, HireRight, Inc., made statements about Robert Wilson, Jr., which were untrue, and defamed his reputation. In communication with H.E. Butt Food Stores, Defendant slandered the character of Robert Wilson, Jr.

Further, Defendant published false statements to third parties without justification or excuse. In a letter to H.E. Butt Food Store, Defendant falsely stated that Mr. Robert Wilson, Jr., had a felony conviction against him for burglary of a habitation and libeled the character of Plaintiff.

5. On all occasions in question, Defendant, HireRight, Inc., published, or caused to be published, statements that they knew were false to third parties without justification or excuse. HireRight, Inc.'s conduct is slanderous per se, and HireRight, Inc.'s conduct is libelous per se, V.T.C.A. Civil Practice & Remedies Code §73.001

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CAUSE NO. 2003 CI04571

ROBERT WILSON, JR.,	§	IN THE DISTRICT COURT
	§	
	§	
v.	§	45TH JUDICIAL DISTRICT
	§	
	§	
HIRERIGHT, INC	§	BEXAR COUNTY, TEXAS

DEFENDANT'S ORIGINAL ANSWER

Defendant HireRight, Inc. files this Original Answer to Plaintiff's Original Petition.

I.

GENERAL DENIAL

Defendant asserts a general denial as authorized by TEX. R. CIV. P. 92, and respectfully requests the Court to require Plaintiff to prove each of his claims, charges, and allegations by a preponderance of the evidence under the Constitution and laws of the State of Texas. Defendant respectfully requests that it be allowed to plead further defenses in this cause as the facts surrounding this matter are developed.

II.

AFFIRMATIVE DEFENSES

First Affirmative Defense

Defendant alternatively pleads that Plaintiff's claims are barred, in whole or in part, by the applicable statutes of limitation.

Second Affirmative Defense

Defendant alternatively pleads that Plaintiff has failed to exhaust administrative, contractual or arbitration remedies.

Third Affirmative Defense

Defendant alternatively pleads that Plaintiff has failed to mitigate his alleged damages in whole or in part, and further asserts that Defendant is entitled to an offset to the extent of any mitigation by Plaintiff.

Fourth Affirmative Defense

Defendant alternatively pleads that Plaintiff has failed to allege facts sufficient to state a claim for punitive damages.

Fifth Affirmative Defense

Defendant alternatively pleads the limitation of damages contained in TEX. CIV. PRAC. & REM. CODE ANN. § 41.008 (Vernon Supp. 2003), and all other caps and limitations on damages.

Sixth Affirmative Defense

Defendant alternatively pleads that all statements made by employees or agents of Defendant with regard to Plaintiff were absolutely or qualifiedly privileged and made without malice.

Seventh Affirmative Defense

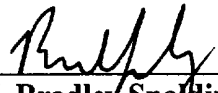
Defendant alternatively pleads that Plaintiff's claims are preempted and barred by federal law.

Eighth Affirmative Defense

Defendants reserve the right to file and serve additional affirmative defenses as appropriate.

WHEREFORE, PREMISES CONSIDERED, Defendant HireRight, Inc. prays that Plaintiff take nothing herein, and that Defendant have judgment for its costs and for such other and further relief, at law or in equity, to which it may be justly entitled.

Respectfully submitted,



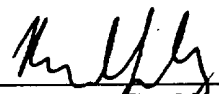
J. Bradley Spalding
State Bar No. 00786253
LITTLER MENDELSON, P.C.
1301 McKinney Street
Suite 1900
Houston, Texas 77010
(713) 951-9400 (Telephone)
(713) 951-9212 (Telecopier)

**Attorney for Defendant
HireRight, Inc.**

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing document has been forwarded to counsel of record by facsimile and postage-prepaid, certified mail, return receipt requested, on this the 3rd day of April, 2003, addressed as follows:

Gregory W. Canfield
888 Isom Road
Suite 203
San Antonio, Texas 78216



J. Bradley Spalding

HOUSTON:151671.1 043656.1002



April 3, 2003

J. Bradley Spalding
Direct: 713.652.4731
Direct Fax: 713.951.9212
bspalding@littler.com

VIA FEDERAL EXPRESS

Ms. Margaret G. Montemayer
Bexar County District Clerk
100 Dolorosa
San Antonio, TX 78205-3028

Re: Cause No. 2003 CI04571; *Robert Wilson, Jr. v. HireRight, Inc.*, In the 45th Judicial District Court, Bexar County, Texas

Dear Ms. Montemayer:

Enclosed for filing in the above-styled cause are the original and one copy of each of the following documents:

1. DEFENDANT'S ORIGINAL ANSWER;
2. HIRERIGHT'S SPECIAL EXCEPTION; and
3. NOTICE OF HEARING.

By copy of this letter, I am notifying all counsel of record of the filing of these documents by certified mail, return receipt requested.

Please file-stamp the extra copy of each document indicating receipt and filing and return same to me in the enclosed self-addressed, stamped envelope.

Please contact me if you have any questions.

Very truly yours,


J. Bradley Spalding

JBS/dp
Enclosures

Ms. Margaret G. Montemayer
April 3, 2003
Page 2

cc: Mr. Gregory W. Canfield (w/encl.)
888 Isom Road, Suite 203
San Antonio, Texas 78216
VIA FACSIMILE AND CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Defendant HireRight, Inc. respectfully requests that the foregoing Special Exception be granted and that Plaintiff be required to amend his Petition, and if he refuses or fails to so amend, that this Court dismiss Plaintiff's claims in their entirety. Defendant further requests that it be awarded its costs in the event of dismissal of the case, and all other and further relief to which it may be justly entitled.

Respectfully submitted,



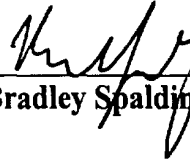
J. Bradley Spalding
State Bar No. 00786253
LITTLER MENDELSON, P.C.
1301 McKinney Street
Suite 1900
Houston, Texas 77010
(713) 951-9400 (Telephone)
(713) 951-9212 (Telecopier)

**Attorney for Defendant
HireRight, Inc.**

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing document has been forwarded to counsel of record by facsimile and postage-prepaid, certified mail, return receipt requested, on this the 3rd day of April, 2003, addressed as follows:

Gregory W. Canfield
888 Isom Road
Suite 203
San Antonio, Texas 78216



J. Bradley Spalding

HOUSTON:151711.1 043656.1002

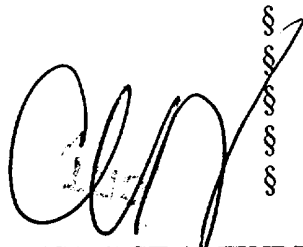
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CAUSE NO. 2003-CI-04571

ROBERT WILSON, JR.

v.

HIRERIGHT, INC.



IN THE DISTRICT COURT

45TH JUDICIAL DISTRICT

BEXAR COUNTY, TEXAS

PLAINTIFF'S FIRST AMENDED ORIGINAL PETITION

TO THE HONORABLE JUDGE OF SAID COURT:

NOW COMES ROBERT WILSON, JR., as Plaintiff, complaining of Defendant, HireRight, Inc. (hereinafter "HireRight"), and for cause of action would show the Court as follows:

- 1.(a) Plaintiff, ROBERT WILSON, JR., is presently before the court for all purposes.
- 1.(b) The Defendant is presently before the court for all purposes.
2. Plaintiff advises the Court that the discovery in this cause will be conducted under Level II.
3. Venue is proper in Bexar County, Texas pursuant to V.T.C.A. Civil Practice & Remedies

Code §15.001 et seq.

4. On or about March 25, 2002, HireRight, Inc., made statements about Robert Wilson, Jr., which were untrue, and defamed his reputation. In communication with H.E. Butt Food Stores, Defendant slandered the character of Robert Wilson, Jr.

Further, Defendant published false statements to third parties without justification or excuse. In a letter to H.E. Butt Food Store, Defendant falsely stated that Mr. Robert Wilson, Jr., had a felony conviction against him for burglary of a habitation and libeled the character of Plaintiff.

5. On all occasions in question, Defendant HireRight published, or caused to be published, statements that they knew were false to third parties without justification or excuse. HireRight's conduct is slanderous per se and HireRight's conduct is libelous per se, V.T.C.A. Civil Practice & Remedies Code

§73.001 et seq.

6. As a result of Defendant's conduct, Plaintiff has suffered damages in the form of past and future loss of earning capacity, mental anguish, and other damages all in an amount exceeding the minimum jurisdictional limits of this Court, but no more than One Hundred Thousand Dollars (\$100,000.00). Defendant's actions have caused Mr. Robert Wilson, Jr., to lose an opportunity to be employed by H.E. Butt Food Stores.

Among other damages, he has suffered humiliation, public ridicule, loss of personal reputation, mental anguish, and emotional distress as a consequence of the false statements made by the Defendant.

7. In the alternative, Plaintiff would state that HireRight acted with reckless disregard to the rights of Plaintiff and that HireRight's actions were grossly negligent.

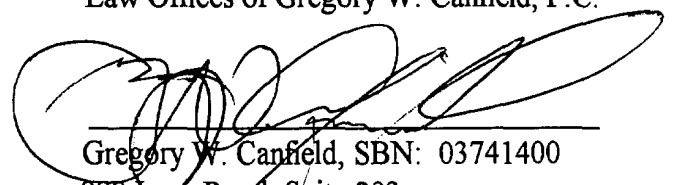
JURY TRIAL DEMAND

8. Robert Wilson, Jr., asserts his rights under the Texas Constitution, Article I, Section 15, and hereby demands a jury trial in accordance with Texas Rule of Civil Procedure 216.

WHEREFORE, PREMISES CONSIDERED, Plaintiff prays that citation issue and, that after notice and hearing, he recover damages against Defendant as set out above, as well as prejudgment and postjudgment interest, reasonable attorney's fees, costs of court, and such other and further relief to which the Plaintiff may be entitled.

Respectfully submitted,

Law Offices of Gregory W. Canfield, P.C.



Gregory W. Canfield, SBN: 03741400

888 Iron Road, Suite 203

San Antonio TX 78216

(210) 344-3366; (210) 344-4346 FAX

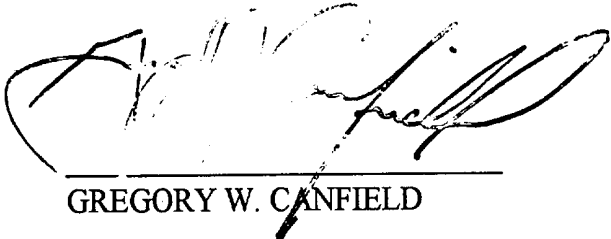
CERTIFICATE OF SERVICE

The undersigned does hereby certify that on the 23rd day of April, 2003, a true and correct copy of *PLAINTIFF'S FIRST AMENDED ORIGINAL PETITION* was sent according to the Texas Rules of Civil Procedure 21a VIA:

☐ CERTIFIED MAIL/RETURN RECEIPT REQUESTED;
☒ FAX; AND/OR
☒ REGULAR MAIL

to counsel of record, to wit:

Littler Medelson, P.C.
Attn: J. Bradley Spalding
The Chevron Tower, Suite 1900
1301 McKinney St.
Houston TX 77010-3031



GREGORY W. CANFIELD

LAW OFFICES
OF
GREGORY W. CANFIELD
A PROFESSIONAL CORPORATION

GREGORY W. CANFIELD
(210) 344-3366
(210) 344-4346 FAX

888 ISOM ROAD
SUITE 203
SAN ANTONIO, TEXAS 78216

BULVERDE OFFICE
(830) 980-8282
EMAIL: LOGWCPC@AOL.COM

April 22, 2003

BEXAR COUNTY COURTHOUSE
DISTRICT CLERK
100 DOLOROSA
SAN ANTONIO TX 78205

RE: CAUSE NO. 2003-CI-04571; 45TH JUDICIAL DISTRICT COURT, BEXAR COUNTY, TEXAS
ROBERT WILSON, JR. v. HIRERIGHT, INC.

Dear Clerk of the Court:

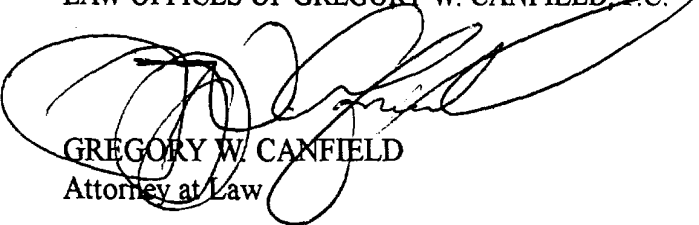
Enclosed please find the original and one copy of *Plaintiff's First Amended Original Petition* for filing with the Court in connection with the above-referenced matter. Please return the file-marked copy to this office in the enclosed self-addressed, stamped envelope provided for your convenience.

By copy of this letter, I am forwarding a true and correct copy of same to opposing counsel as evidenced below.

In the event you have questions or comments, please contact me.

Best regards,

LAW OFFICES OF GREGORY W. CANFIELD, P.C.



GREGORY W. CANFIELD
Attorney at Law

GWC/mc

F:\DICT\LTRS\WLSamdPOP2clk

(Encl. Orig. + cc & env.)

CC: Littler Medelson, P.C.

Attn: J. Bradley Spalding

The Chevron Tower, Suite 1900

1301 McKinney St.

Houston TX 77010-3031

CAUSE NO. 2003 CI04571

ROBERT WILSON, JR.,

v.

HIRERIGHT, INC

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IN THE DISTRICT COURT

45TH JUDICIAL DISTRICT

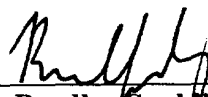
BEXAR COUNTY, TEXAS

NOTICE TO STATE COURT OF REMOVAL TO FEDERAL COURT

TO: Margaret G. Montemayer, Bexar County District Clerk, 100 Dolorosa, San Antonio, Texas 78205-3028.

PLEASE TAKE NOTICE that on May 12, 2003, Defendant HireRight, Inc., filed a Notice of Removal in the United States District Court for the Western District of Texas, San Antonio Division, for removal of this action to that United States District Court. Pursuant to 28 U.S.C. Section 1446(d), the filing of the Notice of Removal in the United States District Court, together with the filing of a copy of that Notice with this Court (attached as Exhibit 1), effects the removal of this action, and this Court may proceed no further unless the case is remanded.

Respectfully submitted,



J. Bradley Spalding
State Bar No. 00786253
Fed. I.D. No. 21169
LITTLER MENDELSON, P.C.
1301 McKinney Street
Suite 1900
Houston, Texas 77010
(713) 951-9400 (Telephone)
(713) 951-9212 (Telecopier)

**Attorney for Defendant
HireRight, Inc.**

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing document has been forwarded to counsel of record by facsimile and postage-prepaid, certified mail, return receipt requested, on this the 1st day of May, 2003, addressed as follows:

Gregory W. Canfield
888 Isom Road
Suite 203
San Antonio, Texas 78216



J. Bradley Spalding

HOUSTON:152873.1 043656.1002

* D O C K E T I N F O R M A T I O N *

CAUSE NUM: 2003CI04571
DATE FILED: 03/25/2003 COURT: 045 UNPAID BALANCE: 0.00
TYPE OF DOCKET: DAMAGES

* * * S T Y L E * * *

ROBERT WILSON JR
VS HIRERIGHT INC

ACCOUNT TYPE: ACCOUNT NO:
ACCESS: 0 STATUS: PENDING
LIST TYPE: C

* L I T I G A N T I N F O R M A T I O N *

SEQ	LAST /FIRST /MIDDLE NAME	LIT. TYPE/ATTORNEY	DATE
00001	WILSON ROBERT JR	PLAINTIFF	03/25/2003
		00001 CANFIELD, GREGORY W	
00002	HIRERIGHT INC	DEFENDANT	03/25/2003
		00002 SPALDING, J BRADLEY	

* S E R V I C E S I N F O R M A T I O N *

SEQ	SERVICE TYPE / DATES	DIST	LITIGANT NAME
00001	CITATION	2	
	ISS: 03/26/2003 REC:	EXE:	RET:

* A T T O R N E Y I N F O R M A T I O N *

SEQ	DATE FILED	BAR NBR.	NAME	STATUS	DATE
00001	03/25/2003	03741400	CANFIELD, GREGORY W	SELECTED	03/25/2003
00002	04/04/2003	00786253	SPALDING, J BRADLEY	SELECTED	04/08/2003

* P R O C E E D I N G I N F O R M A T I O N *

SEQ	DATE FILED	REEL	IMAGE	PAGE COUNT
00001	03/25/2003	0000	0000	0000
	DESC: PLAINTIFF'S ORIGINAL PETITION			
00002	03/25/2003	0000	0000	0000
	DESC: REQUEST FOR			
	O/S/CIT			
00003	03/25/2003	0000	0000	0000
	DESC: SERVICE ASSIGNED TO CLERK 2			
00005	04/04/2003	0000	0000	0000
	DESC: ORDER RESETTING ENFORCEMENT CA			
	SPECIAL EXCEPTION OF HIRERIGHTS			
00006	04/04/2003	0000	0000	0000
	DESC: ORIGINAL ANSWER OF			
	HIRERIGHT INC			

OUT OF STATE

"The State of Texas"

NO. 2003-CI-04571ROBERT WILSON JRPlaintiff
VS.HIRERIGHT INC

Defendant

(Note: Attached Document May Contain Additional Litigants.)

IN THE DISTRICT COURT

45th JUDICIAL DISTRICT

BEXAR COUNTY, TEXAS

NOTICE

Citation Directed to: HIRERIGHT INC
BY SERVING THE VICE PRESIDENT OF OPERATIONS LISA GALLAGHER

"You have been sued. You may employ an attorney. If you or your attorney do not file a written answer with the clerk who issued this citation by 10:00 a.m. on the Monday next following the expiration of twenty days after you were served this citation and petition, a default judgment may be taken against you." Said petition was filed on the 25th day of March, 2003.

ISSUED UNDER MY HAND AND SEAL OF SAID COURT ON THIS 26th DAY OF March
A.D., 2003.

PLAINTIFF'S ORIGINAL PETITION

GREGORY W CANFIELD

Attorney/PLAINTIFF

address 888 ISOM RD 203
SAN ANTONIO, TX 78216-4034



MARGARET G. MONTEMAYOR
District Clerk of Bexar County, Texas
Bexar County Courthouse
San Antonio, Texas 78205

By: Veronica Ochoa Deputy
VERONICA OCHOA

OFFICER'S RETURN

Came to hand _____ day of _____, A.D. _____, at _____ o'clock _____ M.
and executed (not executed) the _____ day of _____, A.D. _____, in _____
at _____ o'clock _____ M. by delivering to _____
in person a true copy of this citation together with the accompanying copy of plaintiff's
petition. Served at _____

Cause of failure to execute this citation _____

I traveled _____ miles in the execution of this citation. Fees: _____ Serving citation

\$ _____ Mileage _____ Total \$ _____

Badge/PPS # _____

_____, County, Texas

By _____

The State of Texas

NON - PEACE OFFICER VERIFICATION

VERIFICATION OF RETURN (IF NOT SERVED BY PEACE OFFICER)

SWORN TO this _____ day of _____, _____

NOTARY PUBLIC, STATE OF TEXAS

FILE COPY

(DK002)



SEQ	DATE FILED	COURT	SETT. DATE	TIME	ATTY
00008	04/16/2003	218	04/15/2003	08:30AM	JS
DESC: RULE 11 AGREEMENT					
00010	04/28/2003	218	04/29/2003	08:30AM	JS
DESC: ANSWER					
TO FIRST AMENDED ORIGINAL PETITION OF					
HIRERIGHT INC					
00011	04/28/2003	218	04/24/2003	08:30AM	JS
DESC: FIRST AMENDED					
ORIGINAL PETITION					

* T R I A L I N F O R M A T I O N *

SEQ	DATE FILED	COURT	SETT. DATE	TIME	ATTY
00004	04/07/2003	218	04/15/2003	08:30AM	JS
DESC: NON-JURY TRIAL					
SETTING ON SPECIAL EXCEPTIONS					
RESET TO 4/29/2003 PER SLIP					
00007	04/15/2003	218	04/29/2003	08:30AM	JS
DESC: NON-JURY TRIAL					
MOT TO SET - SPECIAL EXCEPTIONS (RESET					
FROM 4/15/2003 PER SLIP)					
DROP					
00008	04/16/2003	218	04/24/2003	08:30AM	JS
DESC: RULE 11 AGREEMENT					
00009	04/17/2003	218	04/24/2003	08:30AM	JS
DESC: NON-JURY TRIAL					
SETTING ON SPECIAL EXCEPTIONS					
DROPPED					

* O R D E R I N F O R M A T I O N *

SEQ	DATE FILED	JUDGE NAME	VOLUME	PAGE	PAGE CNT	AMOUNT	SOF
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* B O N D I N F O R M A T I O N *

SEQ	DATE FILED	PRINCIPAL
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MARGARET G. MONTEMAYOR
BEXAR COUNTY DISTRICT CLERK

QUEST FOR PROCESS

Cause No. **2003CI04571**

File:

Bert Wilson, Jr.

Court

reRight, Inc.

Date

45th
 APR 25 2003

quest the following process:

ation ☒ Notice ☐ Precept ☐ Temp. Rest. Order ☐

bpoena ☐ Subpoena D.T. ☐ (Describe Duces Tecum on Reverse)

mp. Protective Order ☐ Other ☐

formation for Subpoena: Date ☐ Time ☐ Court ☐

rties to be served (PLEASE TYPE OR PRINT)

HireRight, Inc., by serving its Vice-Pres. of Operations: Lisa Gallagher

ddress 2100 Main St., Suite 400, Irvine CA 92614-6263

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Type: Sheriff; Constable Pct. ☐; Private Process; Certified Mail; Registered Mail; Out of County; Out of State; Secretary of State; Commissioner of Insurance;

itle of Document/Pleading to be attached to process Plaintiff's Original Petition

Name and Address of Attorney: Gregory W. Canfield

888 Isom Road, Suite 203

San Antonio TX 78216

Attorney's Bar No. 03741400

Attorney for Plaintiff ☒ Defendant ☐ Other ☐

CAUSE NO. 2003 CI04571

ROBERT WILSON, JR.,

v.

HIRERIGHT, INC

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§
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IN THE DISTRICT COURT

45TH JUDICIAL DISTRICT

BEXAR COUNTY, TEXAS

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Encl

NOTICE OF HEARING

Defendant's Special Exception is set for hearing on April 15, 2003 at 8:30 a.m.

Respectfully submitted,



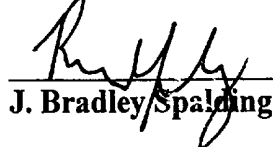
J. Bradley Spalding
State Bar No. 00786253
LITTLER MENDELSON, P.C.
1301 McKinney Street
Suite 1900
Houston, Texas 77010
(713) 951-9400 (Telephone)
(713) 951-9212 (Telecopier)

**Attorney for Defendant
HireRight, Inc.**

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing document has been forwarded to counsel of record by facsimile and postage-prepaid, certified mail, return receipt requested, on this the 3rd day of April, 2003, addressed as follows:

Gregory W. Canfield
888 Isom Road
Suite 203
San Antonio, Texas 78216



J. Bradley Spalding



April 14, 2003

J. Bradley Spalding
Direct: 713.652.4731
Direct Fax: 713.951.9212
bspalding@littler.com

VIA FEDERAL EXPRESS

Ms. Margaret G. Montemayer
Bexar County District Clerk
100 Dolorosa
San Antonio, TX 78205-3028

Re: Cause No. 2003 CI04571; *Robert Wilson, Jr. v. HireRight, Inc.*, In the 45th Judicial District Court, Bexar County, Texas

Dear Ms. Montemayer:

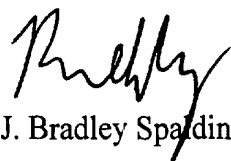
Enclosed for filing in the above-styled cause is the original and one copy of a Rule 11 agreement executed by the parties regarding the Hireright's Special Exceptions.

By copy of this letter, I am notifying all counsel of record of the filing of this document by certified mail, return receipt requested.

Please file-stamp the extra copy of this document indicating receipt and filing and return same to me in the enclosed self-addressed, stamped envelope.

Please contact me if you have any questions.

Very truly yours,


J. Bradley Spalding

JBS/dp
Enclosures

ARIZONA

CALIFORNIA

COLORADO

DISTRICT OF COLUMBIA

GEORGIA

ILLINOIS

MARYLAND

MINNESOTA

NEVADA

NEW JERSEY

NEW YORK

OHIO

PENNSYLVANIA

TEXAS

WASHINGTON

Ms. Margaret G. Montemayer
April 14, 2003
Page 2

cc: Mr. Gregory W. Canfield (w/encl.)
888 Isom Road, Suite 203
San Antonio, Texas 78216
VIA CERTIFIED MAIL
RETURN RECEIPT REQUESTED

04/14/2003 10:34 210-344-4.

04-14-2003 11:32am From

T-557 P.002/002 F-246

LITTLER MENDELSON®

A PROFESSIONAL CORPORATION

April 14, 2003

J. Bradley Spalding
Direct: 713.652.4731
Direct Fax: 713.951.9212
bspalding@littler.com

VIA FACSIMILE

Mr. Gregory W. Canfield
Law Offices of Gregory W. Canfield, P.C.
888 Isom Road, Suite 203
San Antonio, Texas 78216

RULE 11 AGREEMENT

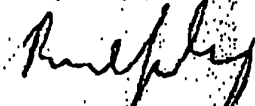
Re: Cause No. 2003 CI04571; *Robert Wilson, Jr. v. HireRight, Inc.*, In the 45th Judicial District Court, Bexar County, Texas

Dear Gregory:

Per your assistant's telephone message this morning, you have agreed to file an amended petition on behalf of your client no later than April 25, 2003. The amended petition will specify the maximum amount of damages claimed by Mr. Wilson as required by TEX. R. CIV. P. 47. Once I have received a signed copy of this agreement from you, I will reschedule tomorrow's special exceptions hearing for April 25, 2003 at 8:30 a.m. Should you file your amended petition by that time as you have agreed herein, I will cancel the hearing.

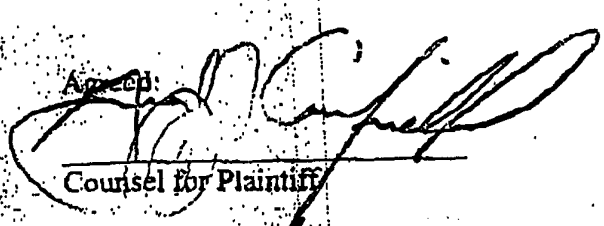
If this letter does not accurately reflect the agreement you intended, please contact me no later than 1:00 p.m. today.

Very truly yours,



J. Bradley Spalding
JBS/dp

Agreed:


Counsel for Plaintiff

CAUSE NO. 2003 CI04571

ROBERT WILSON, JR.,

v.

HIRERIGHT, INC

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IN THE DISTRICT COURT

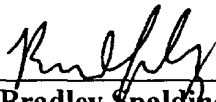
45TH JUDICIAL DISTRICT

BEXAR COUNTY, TEXAS

FIRST AMENDED NOTICE OF HEARING

Defendant's Special Exception is set for hearing on April ²⁷~~25~~, 2003 at 8:30 a.m.

Respectfully submitted,



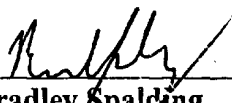
J. Bradley Spalding
State Bar No. 00786253
LITTLER MENDELSON, P.C.
1301 McKinney Street
Suite 1900
Houston, Texas 77010
(713) 951-9400 (Telephone)
(713) 951-9212 (Telecopier)

**Attorney for Defendant
HireRight, Inc.**

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing document has been forwarded to counsel of record by facsimile and postage-prepaid, certified mail, return receipt requested, on this the 15th day of April, 2003, addressed as follows:

Gregory W. Canfield
888 Isom Road
Suite 203
San Antonio, Texas 78216



J. Bradley Spalding

CAUSE NO. 2003 CI04571

ROBERT WILSON, JR.,

v.

HIRERIGHT, INC

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IN THE DISTRICT COURT

45TH JUDICIAL DISTRICT

BEXAR COUNTY, TEXAS

APR 29 2003

SECOND AMENDED NOTICE OF HEARING

Defendant's Special Exception is set for hearing on April 29, 2003 at 8:30 a.m.

Respectfully submitted,



J. Bradley Spalding
State Bar No. 00786253
LITTLER MENDELSON, P.C.
1301 McKinney Street
Suite 1900
Houston, Texas 77010
(713) 951-9400 (Telephone)
(713) 951-9212 (Telecopier)

**Attorney for Defendant
HireRight, Inc.**

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing document has been forwarded to counsel of record by facsimile and postage-prepaid, certified mail, return receipt requested, on this the 15th day of April, 2003, addressed as follows:

Gregory W. Canfield
888 Isom Road
Suite 203
San Antonio, Texas 78216



J. Bradley Spalding



April 15, 2003

J. Bradley Spalding
Direct: 713.652.4731
Direct Fax: 713.951.9212
bspalding@littler.com

VIA FEDERAL EXPRESS

Ms. Margaret G. Montemayer
Bexar County District Clerk
100 Dolorosa
San Antonio, TX 78205-3028

Re: Cause No. 2003 CI04571; *Robert Wilson, Jr. v. HireRight, Inc.*, In the 45th Judicial
District Court, Bexar County, Texas

Dear Ms. Montemayer:

Enclosed for filing in the above-styled cause is the original and one copy of a SECOND
AMENDED NOTICE OF HEARING.

By copy of this letter, I am notifying all counsel of record of the filing of this document by
certified mail, return receipt requested.

Please file-stamp the extra copy of this document indicating receipt and filing and return
same to me in the enclosed self-addressed, stamped envelope.

Please contact me if you have any questions.

Very truly yours,

A handwritten signature in black ink, appearing to read "J. Bradley Spalding".

J. Bradley Spalding

JBS/dp
Enclosures

Ms. Margaret G. Montemayer
April 15, 2003
Page 2

cc: Mr. Gregory W. Canfield (w/encl.)
888 Isom Road, Suite 203
San Antonio, Texas 78216
VIA CERTIFIED MAIL
RETURN RECEIPT REQUESTED

CAUSE NO. 2003 CI04571

ROBERT WILSON, JR.

v.

HIRERIGHT, INC.

CRP

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IN THE DISTRICT COURT

45TH JUDICIAL DISTRICT

BEXAR COUNTY, TEXAS

**DEFENDANT'S ANSWER TO PLAINTIFF'S FIRST AMENDED
ORIGINAL PETITION**

Defendant HireRight, Inc. files this Answer to Plaintiff's First Amended Original Petition.

I.

GENERAL DENIAL

Defendant asserts a general denial as authorized by TEX. R. CIV. P. 92, and respectfully requests the Court to require Plaintiff to prove each of his claims, charges, and allegations by a preponderance of the evidence under the Constitution and laws of the State of Texas. Defendant respectfully requests that it be allowed to plead further defenses in this cause as the facts surrounding this matter are developed.

II.

AFFIRMATIVE DEFENSES

First Affirmative Defense

Defendant alternatively pleads that Plaintiff's claims are barred, in whole or in part, by the applicable statutes of limitation.

Second Affirmative Defense

Defendant alternatively pleads that Plaintiff has failed to exhaust administrative, contractual or arbitration remedies.

Third Affirmative Defense

Defendant alternatively pleads that Plaintiff has failed to mitigate his alleged damages in whole or in part, and further asserts that Defendant is entitled to an offset to the extent of any mitigation by Plaintiff.

Fourth Affirmative Defense

Defendant alternatively pleads that Plaintiff has failed to allege facts sufficient to state a claim for punitive damages.

Fifth Affirmative Defense

Defendant alternatively pleads the limitation of damages contained in TEX. CIV. PRAC. & REM. CODE ANN. § 41.008 (Vernon Supp. 2003), and all other caps and limitations on damages.

Sixth Affirmative Defense

Defendant alternatively pleads that all statements made by employees or agents of Defendant with regard to Plaintiff were absolutely or qualifiedly privileged and made without malice.

Seventh Affirmative Defense

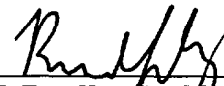
Defendant alternatively pleads that Plaintiff's claims are preempted and barred by federal law.

Eighth Affirmative Defense

Defendants reserve the right to file and serve additional affirmative defenses as appropriate.

WHEREFORE, PREMISES CONSIDERED, Defendant HireRight, Inc. prays that Plaintiff take nothing herein, and that Defendant have judgment for its costs and for such other and further relief, at law or in equity, to which it may be justly entitled.

Respectfully submitted,



J. Bradley Spalding
State Bar No. 00786253
LITTLER MENDELSON, P.C.
1301 McKinney Street
Suite 1900
Houston, Texas 77010
(713) 951-9400 (Telephone)
(713) 951-9212 (Telecopier)

**Attorney for Defendant
HireRight, Inc.**

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing document has been forwarded to counsel of record by facsimile and postage-prepaid, certified mail, return receipt requested, on this the 25th day of April, 2003, addressed as follows:

Gregory W. Canfield
888 Isom Road
Suite 203
San Antonio, Texas 78216



J. Bradley Spalding

HOUSTON:152829.1 043656.1002



April 25, 2003

J. Bradley Spalding
Direct: 713.652.4731
Direct Fax: 713.951.9212
bspalding@littler.com

Via Federal Express

Ms. Margaret G. Montemayer
Bexar County District Clerk
100 Dolorosa
San Antonio, TX 78205-3028

Re: Cause No. 2003 CI04571; *Robert Wilson, Jr. v. HireRight, Inc.*, In the 45th Judicial District Court, Bexar County, Texas

Dear Ms. Montemayer:

Enclosed for filing in the above-styled cause is the original and one copy of a DEFENDANT'S ANSWER TO PLAINTIFF'S FIRST AMENDED ORIGINAL PETITION.

By copy of this letter, I am notifying all counsel of record of the filing of this document by certified mail, return receipt requested.

Please file-stamp the extra copy of this document indicating receipt and filing and return same to me in the enclosed self-addressed, stamped envelope.

Please contact me if you have any questions.

Very truly yours,

A handwritten signature in black ink, appearing to read "J. Bradley Spalding".

J. Bradley Spalding

JBS/rtw
Enclosures

Ms. Margaret G. Montemayer
April 25, 2003
Page 2

cc: Mr. Gregory W. Canfield (w/encl.)
888 Isom Road, Suite 203
San Antonio, Texas 78216
VIA CERTIFIED MAIL
RETURN RECEIPT REQUESTED